IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

Bail Appl..No. 5204 of 2007()

CC.871/2004 of J.M.F.C.,VADAKARA

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: PETITIONER/1ST ACCUSED

SUDHEESH, AGED 25 YEARS, S/O. KANNAN,
KACHERIKKAL HOUSE, MELADI AMSOM, DESOM,
KOYILANDY TALUK.

BY ADV. SRI.R.BINDU (SASTHAMANGALAM)

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23/08/2007, ALONG WITH BA NO. 5209 OF 2007 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.Nos.5204 & 5209 of 2007

Dated this the 23rd day of August, 2007

ORDER

These applications are for regular bail. The common petitioner is the accused in two cases both, registered, inter alia, under Section 379 I.P.C. It is submitted that one more case is against the petitioner also under Section 379 I.P.C. Final report has been filed. The petitioner had appeared before the learned Magistrate. He was enlarged on bail. But on one date of posting in one case, the petitioner could not appear. According to him, the actual date of posting was 13.03.07., but he had wrongly noted the date as 30.03.07. Because of the absence of the petitioner, warrant of arrest was issued against him. Because of the pendency of the warrant of arrest, the petitioner could not appear in the next case as sureties were not ready by then. Consequently a warrant of arrest has been issued in that case also. The petitioner surrendered later in both cases. The learned Magistrate rejected his application for regular bail. The learned Sessions Judge also did not consider the petitioner's prayer for bail favourably. In these circumstances the petitioner has now come before this Court with this bail application.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence was not wilful and occurred in the circumstances explained above. The petitioner was never guilty of any contumacious behaviour calculated to protract the proceedings. The petitioner is willing to co-operate for the expeditious disposal of the case. He shall appear before the learned Magistrate on all dates of posting. In these circumstances, the petitioner who has remained in custody from 26.07.07 may now be enlarged on bail in both the cases, it is prayed.

3. The learned Public Prosecutor does not oppose the said prayer. The learned Public Prosecutor only prays that appropriate conditions may be imposed which shall ensure the presence of the petitioner before the learned Magistrate on all dates of posting either personally or through pleader so that trial against the petitioner can proceed.

4. I am satisfied that these petitions can be allowed and the petitioner can be released.

5. In the result, these applications are allowed. The petitioner shall be released on bail on the following terms and conditions.

i) The petitioner shall execute in each case a bond for Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall report before the learned Magistrate either in person or through counsel on all dates of posting as directed by the learned Magistrate;

iii) The petitioner shall, until the case against him is finally disposed of, not leave the State of Kerala without the prior permission of the learned Magistrate;

iv) the petitioner shall report before the S.H.O, Vadakara Police Station on the first Sundays of all English Calendar months between 5 p.m and 6 p.m until the case against his is finally disposed of.

(R.BASANT, JUDGE)

rtr/-